STATE OF SOUTH DAKOTA)

SS

COUNTY OF MINNEHAHA)

BRIAN D. MILLER,

Plaintiff,

vs.

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

TO THE ABOVE-NAMED DEFENDANT, Metropolitan Life Insurance Company at PO Box 14590, Lexington, KY 40511-4590:

You are hereby summoned and required to serve upon Scott G. Hoy, Hoy Trial Lawyers, Prof. L.L.C., attorneys for the above-named Plaintiff, 1608 W. Russell Street, Sioux Falls, South Dakota, 57104, an Answer to the Complaint which is herewith served upon you within thirty (30) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Dated at Sioux Falls, South Dakota this 30 day of March, 2012.

HOY(TRIAL LAWYERS, PROF. L.L.C.

Scott G. Hoy

1608/W. Russell Street

\$ioux Falls, South Dakota 57104

(605) 334-8900

Fax (605) 338-1918

Email - scott@hoylaw.com Attorneys for the Plaintiff



STATE OF SOUTH DAKOTA)
:SS

COUNTY OF MINNEHAHA)

BRIAN D. MILLER,

Plaintiff,

vs.

COMPLAINT AND DEMAND
FOR TRIAL BY JURY

Defendant.

COMES NOW, Plaintiff by and through his attorney of record to state his claims as follows:

- 1. That Plaintiff, Brian D. Miller (hereinafter referred to as "Plaintiff"), currently is a resident of Sioux Falls, South Dakota, County of Minnehaha and as an employee at Citibank, and as a part of his benefits package, he had a policy of disability insurance with Metropolitan Life Insurance Company.
- That Plaintiff made a claim for long-term disability benefits on or before
 December 27, 2010, under the terms of the policy.
- That despite correspondence and submissions from Plaintiff and his doctors,
 Metropolitan Life Insurance Company continues to dishonor the claim, stating
 he is not disabled under the meaning of the policy.
- 4. That Metropolitan Life Insurance Company's actions in this matter constitute a breach of contract, and in addition, constitute a breach of duty of good faith and fair dealing.
- 5. That Plaintiff remains disabled to this date, for which he has received no

benefits despite the purpose of the policy.

- 6. That the delay in paying benefits by Defendant is unreasonable under the meaning of SDCL 58-12-3, entitling Plaintiff to a claim for insurance bad faith, and to a claim for attorney fees both under state and federal law.
- 7. Plaintiff requests that after an evidentiary hearing that this Court enter an order:
 - (a) Assessing and awarding benefits under the contract in the amount to be proven at trial;
 - (b) Assessing actual and consequential damages for the breach of duty of good faith and fair dealing; and,
 - (c) Assessing exemplary damages under South Dakota law, and award attorney fees commensurate with industry rates.

Dated at Sioux Falls, South Dakota, this <u>50</u> day of March, 2012.

HOY TRIAL LAWYERS, PROF. L.L.C

Scott & Hoy

1608 W. Russell Street

Sioux Falls, SD 57104/

<u>(</u>**60**5) 334-8900

Fax (605) 338-1918

E-mail: scott@hoylaw.com
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff by and through his counsel of record, and pursuant to SDCL § 15-6-38(b), hereby respectfully demands trial by jury of all issues so triable.

One of the attorneys for Plaintiff

STATE OF SOUTH DAKOTA)	IN CIRCUIT COURT
: SS COUNTY OF MINNEHAHA:)	SECOND JUDICIAL CIRCUIT
BRIAN D. MILLER, Plaintiff,	* * CIV. 12
VS.	* ADMISSION OF SERVICE
METROPOLITAN LIFE INSURANCE COMPANY,	*
Defendant.	*
The undersigned, Director of the	Division of Insurance for the State of South
Dakota, hereby admits service of two (2) true and correct copies of the Summons and	
Complaint, having received the same at my office in the State Capitol in Pierre, Hughes	
County, South Dakota, at o'c	llock <u>A</u> .m. on April <u>2</u> , 2012.
	the statutory service fee in the amount of \$10.00.
Dated at Pierre, South Dakota, this 2 day of April, 2012.	
Merle Scheiber, Director	
Subscribed and sworn to before me this _5_ day of March 2012. Notary Public – South Dakota My commission expires: _October 3	MATTHEW BALLARD NOTARY PUBLIC SOUTH DAKOTA 15, 2017
(SEAL)	ent of the Court o

STATE OF SOUTH DAKOTA)

SSS

COUNTY OF MINNEHAHA)

BRIAN D. MILLER,

Plaintiff,

vs.

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

IN CIRCUIT COURT

SECOND JUDICIAL CIRCUIT

*

CIV. 12 - ___

NOTICE OF SERVICE OF
SUMMONS AND COMPLAINT UPON
DIVISION OF INSURANCE

*

Defendant.

TO DEFENDANT Metropolitan Life Insurance Company, PLEASE TAKE NOTICE OF THE FOLLOWING:

- 1. Plaintiff Brian D. Miller has commenced a lawsuit against you.
- 2. Copies of the Summons and Complaint were served upon the Division of Insurance of the State of South Dakota and filed in the office of the Division of Insurance, together with payment of a fee of \$10.00, on April 5, 2012.
- 3. True and correct copies of this Notice, Admission of Service, and the process (Summons and Complaint) are being mailed to you at your last known address within ten (10) days after service upon and filing with the Division of Insurance.

Dated at Sioux Falls, South Dakota, this $\frac{9}{2}$ day of April, 2012.

HOY TRIAL LAWYERS, Prof. L.L.C.

Scott & Hoy

1608 W. Russell Street / Sioux Falls, SD 57104-1330

Phone: (605) 334-8900
Fax: (605) 338-1918
Email: scott@hoylaw.com
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies that on April $\underline{\mathcal{G}}$, 2012, he served a copy of this Notice of Service of Summons and Complaint Upon Division of Insurance with attached copies of the process (Summons and Complaint) and Admission of Service on Defendant Metropolitan Life Insurance Company by certified mail (#7099 3220 0010 0430 2257), postage prepaid, addressed to:

Metropolitan Life Insurance Company

Attn: Legal Department

PO Box 14590

Lexington, KY 40511-4590

Scott G. Hoy

Attorney for the Plaintiff